

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 563 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VIJAYNAGAR EDUCATION SOCIETY

Versus

DISTRICT EDUCATION OFFICER

Appearance:

Appellant SERVED

Mr.B.Y.Mankad, AGP instructed by M/s.M.G.Doshit &
Co. for respondent no.1.

Mr.P.K.Jani, Advocate for respondent no.2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE C.K.BUCH

Date of decision: 12/11/98

ORAL JUDGEMENT

The notice has been served on the appellant but the appellant has not bothered to file appearance of an advocate in the matter. The present appeal arises out of an order passed by Learned Single Judge on 18.12.84 in Special Civil Application No.5236/84. The respondent

Headmaster working since 28.6.78 as such was suspended from 31.8.1984. Proposal forwarded on 5.9.84 in accordance with the provisions contained in section 26 of the Gujarat Secondary Education Act was turned down by DEO on 11.10.1984. School Management approached the court with a relief that the order passed by DEO on 11.10.84 vide Annexure T be quashed and set aside and DEO be directed to ratify the order of suspension of the Head Master. Adinterim relief was granted to the effect that Head Master shall be paid salary in accordance with law even if the suspension continues. Even after dismissal of the petition, the said order was continued till 26.12.84. School Management also preferred Civil Application No.5326/84 in the LPA. The Court while issuing the rule passed the order as under:-

"Rule. The suspension order will remain operative subject to the condition that the appellant continues to pay to the second respondent (Head Master) the full salary and allowances which would have been due to him had he been in services from month to month as he is paid to those in service."

2. It appears that thereafter civil application has been disposed of in the said terms. Mr.Jani, Learned Advocate appearing for the respondent no.2 Headmaster submitted that thereafter there was an enquiry which has been completed and the petitioner respondent no.2 is no more in the service in view of the order of termination passed by the School Management which is subject matter of a litigation before the Education Tribunal constituted under the provisions contained in Gujarat Secondary Education Act. The matter is pending before the Tribunal and the respondent no.2 reached the age of superannuation. It seems that under these circumstances the appellant is not interested in the appeal. It was the duty of the appellant to place the material before the court indicating that the service of the respondent no.2 has been terminated and that would have saved the time of the all concern. It is under these circumstances we direct that the appellant shall pay costs of this appeal to the respondents. The appeal stands dismissed accordingly with costs.

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